



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,952	02/07/2002	James W. Burrell IV	BURRELL 3.0-012	3622

7590

08/15/2003

LAW OFFICES  
EZRA SUTTON, P. A.  
A PROFESSIONAL CORPORATION  
PLAZA 9, 900 ROUTE 9  
WOODBIDGE, NJ 07095

EXAMINER

NOLAN JR, CHARLES H

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

10/071,952

Applicant(s)

BURRELL, JAMES W.

Examiner

Charles H Nolan, Jr.

Art Unit

2854

A

-- The MAILING DATE of this c mmunication appears on the c ver she t with the corresp ndenc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

A. Claims 33-35 are objected to because of the following informalities: Claim 33 recites "the language code...." Perhaps, Applicant meant - - a language code - -. Claim 34 recites "the country code...." Perhaps, Applicant meant - - a country code - -. Claim 35 recites "the country's area code...." Perhaps, Applicant meant - - a country's code - -. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-19,32-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burrell, IV.(5,993,089)

With respect to Claims 1,3-4, Burrell teaches the eight bit code activation on the front page diagram with a first four bit code combined with a second four bit code. With respect to Claims 2,19, Burrell teaches the numeric values for the bits in figure 1B. With respect to Claim 5, Burrell teaches the activation of all eight sensors in figure 2M-6("Insert"). With respect to Claim 6, Burrell teaches the activating of at least one character to produce data in figure 2J-2. With respect to Claims 7-10, Burrell teaches the function,

Art Unit: 2854

data character string activation and the two-sensor activation to produce data character strings in figures 2J-2 to figure 2M-6. With respect to Claim 11, Burrell teaches the activation of one set of sensors and the non-activation of another set of sensors to produce a vowel ("a") in figure 2A. With respect to Claim 12, Burrell teaches the activation of at least one sensor of the first and second sensor set to produce a vowel in figure 2K. With respect to Claim 13, Burrell teaches the activation of at least one sensor of the first and second sensor set to produce a consonant ("c") in figure 2C. With respect to Claim 14, Burrell teaches the space activation as recited in figure 2J-1. With respect to Claim 15, Burrell teaches the punctuation mark activation in figure 2D. With respect to Claim 16, Burrell teaches the symbol activation in ("{" in figure 2H. With respect to Claim 17, Burrell teaches the number activation in figure 2E. With respect to Claim 18, Burrell teaches the function activation in figure 2G. With respect to Claim 32, Burrell teaches the shifting (switching) into a second mode in the Abstract. Lines 15-20. With respect to Claims 33-35, Burrell teaches the language or country code or area code activation in the Abstract, lines 20-21.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrell.

With respect to Claims 20-31, the difference between Burrell and Claims 20-31 is that Burrell does not teach the activation of a single sensor to move the object in figure 2I. However, it would have been obvious to one of ordinary skill in the art to use a single key to move an object so as to reduce user fatigue and /or key memorization. Burrell teaches the movement and rotation of objects in his figure 2I. The particular finger used to activate the sensor is an obvious choice of the specific user. A user is not required to use his or her thumb to activate a particular sensor. Surely, an operator may use his or her pinky to achieve the same method as recited in these claims.

### ***Response to Arguments***

5. Applicant's arguments filed 5-30-2003 have been fully considered but they are not persuasive. Applicant appears to be arguing the instant specification. The claims of the instant invention do not recite any of the language that Applicant argues in the response dated 5-30-2003. Applicant is reminded that it is the claims of the instant invention that the Examiner compares to the prior art of record. "The invention disclosed in [Applicant's] written description may be outstanding in its field, but the name of the game is the **claim**." *In re Hiniker Co.*, 47 USPQ2d 1523,1529 (Fed. Cir. 1998). (Emphasis added).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


Art Unit: 2854

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H Nolan, Jr. whose telephone number is 703-308-0961. The examiner can normally be reached on Monday through Thursday 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 703-305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Charles H Nolan, Jr.  
Examiner  
Art Unit 2854

CHN  
August 10, 2003